



TOWN MEETING

ARTICLE: 34 - Registered Marijuana Dispensaries

To see if the Town will vote to amend the Zoning Bylaw to define and/or regulate the location, use, acquisition, commercial and home cultivation, processing, transfer, transport, sale, distribution, and/or dispensing of medical marijuana and to define and regulate Registered Marijuana Dispensaries in the Town as authorized under 105 CMR 725: Implementation of an Act for the Humanitarian Medical Use of Marijuana; or to make any similar or other changes to the Zoning Bylaw which would have the same or substantially the same purpose; or take any other action relative thereto.

MOTION: 1

That the Zoning Bylaw be amended to define and regulate the location, use, acquisition, commercial and home cultivation, processing, transfer, transport, sale, distribution, and dispensing of medical marijuana and to define and regulate Registered Marijuana Dispensaries in the Town as authorized under 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana*, as follows:

- **By amending Section IA., Definitions, of the Zoning Bylaw, to add the following term and definition in alphabetical order:**

Registered Marijuana Dispensary - A not-for-profit entity and use registered under 105 CMR 725.100, and previously known as a Medical Marijuana Treatment Center, which may acquire, cultivate, possess, process (including development of related products such as edible Marijuana-Infused Products, tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, and/or administer marijuana, products containing marijuana, related supplies, and/or educational materials to registered qualifying patients or their personal caregivers. Also referred to herein as "RMD" or "RMDs".

- **By additionally amending Section IA., Definitions, of the Zoning Bylaw, by deleting the term "Special Permit Granting Authority", and the definition thereof, in its entirety and inserting the following definition therefor:**

Special Permit Granting Authority - Zoning Board of Appeals except as otherwise designated by this Zoning Bylaw for the granting of special permits. For the review and issuance of special permits for Registered Marijuana Dispensaries, as allowed by this Bylaw and established in

Section XXV, B., 5., b., the Board of Selectmen shall act as the Special Permit Granting Authority. For the purposes of SECTION XIVB. FLOOD PLAIN OR WATERSHED PROTECTION DISTRICTS. and SECTION XIVE. WATER SUPPLY PROTECTION DISTRICTS. and SECTION XVIA. PROJECT APPROVAL. the Planning Board shall act as the Special Permit Granting Authority for subdivision applications processed under the provisions of the Subdivision Control Law (Chapter 41, Sections 81K - GG M.G.L.) and for approval of projects of significant impact. When the Planning Board is acting as Special Permit Granting Authority, the chairman may call upon the associate member to sit on the Board for the purposes of acting on an application, in the case of absence, inability to act, or conflict of interest on the part of any member, or in the event of a vacancy on the Board. The provisions for filling the position of associate member shall be governed by Article 45 of the Town Bylaws.

- **By amending Section II., *Single Residence Districts*, A., 8., b., of the Zoning Bylaw, by inserting the following language between the words “purpose” and “provided”:**

“, not to include Registered Marijuana Dispensaries,”

- **By amending Section IX., *Administrative and Professional Districts*, A., 2., of the Zoning Bylaw, by deleting the subsection in its entirety and inserting the following therefor:**

2. Administrative offices, clerical offices, statistical offices, professional offices, establishments for research and development, including light manufacturing incidental to such research and development, and any additional use for which a special permit may be obtained in accordance with SECTION XXV. after the determination by the Special Permit Granting Authority that the proposed use is similar to one or more of the uses specifically authorized by this SECTION IX. also, in connection therewith, the parking of motor vehicles and such other accessory uses as are customary. Registered Marijuana Dispensaries shall be allowed with the issuance of a special permit in accordance with SECTION XXV and subject to additional provisions included therein.

- **By amending Section IX., *Administrative and Professional Districts*, of the Zoning Bylaw, by adding a subsection “C.”, as follows, to ensure clarity and the continuation of existing regulations due to the preceding alteration:**

C. All uses shall be subject to conformity with the following requirements:

- a. No building or other structure shall be erected or placed on a lot containing less than forty thousand (40,000) square feet in area.
- b. No building or addition to any building shall be erected or placed on a lot which will result in the covering by buildings of more than 20% of the lot area.
- c. No building or structure other than accessory buildings shall be located within fifty (50) feet of any property boundary line abutting a public or private way or within fifty (50) feet of any other property boundary line. No accessory buildings may be erected within thirty (30) feet of any such property boundary lines.
- d. Off-street parking shall be provided in accordance with SECTION XXI.
- e. PROJECT APPROVAL. The provisions of SECTION XVIA. PROJECT APPROVAL. shall apply.
- f. FLOOR AREA RATIO: The maximum floor area ratio as defined in SECTION IA. DEFINITIONS. shall be 0.30.

▪ **By amending Section IXB., *Lower Falls Village Commercial District, B., 9., of the Zoning Bylaw*, by adding an item “c.” as follows:**

- c. Registered Marijuana Dispensaries

▪ **By amending Section IXC., *Wellesley Square Commercial District, A., 13., of the Zoning Bylaw*, by adding an item “k.” as follows:**

- k. Registered Marijuana Dispensaries

▪ **By amending Section XI., *Business Districts, A., 13., of the Zoning Bylaw*, by adding an item “k.” as follows:**

- k. Registered Marijuana Dispensaries

▪ **By amending Section XIII., *Industrial Districts, A., 11., of the Zoning Bylaw*, by adding an item “c.” as follows:**

- c. Registered Marijuana Dispensaries

- 1 ▪ **By amending Section XIV., *Industrial Districts A, A.*, of the Zoning Bylaw, by**
2 **deleting the subsection in its entirety and inserting the following therefor:**

3
4 A. In Industrial Districts A, no new building or structure shall be
5 constructed or used, in whole or in part, and no building or
6 structure, or part thereof, shall be altered, enlarged, reconstructed
7 or used, and no land shall be used, for any purpose except one or
8 more of the purposes authorized in an Industrial District, including
9 those uses allowed only with the issuance of a special permit.

- 10
11 ▪ **By amending Section XXV., *Special Permit Granting Authority, B., 5.*, of the**
12 **Zoning Bylaw, by deleting the subsection in its entirety and inserting the**
13 **following therefor:**

14
15 5. Use-Specific Reviews and Regulations

16
17 Given their potential impacts, additional considerations and
18 limitations have been established for the review and issuance of
19 special permits for the following uses, and the continued
20 operation thereof.

21
22 a. Adult Uses.

23
24 The Special Permit Granting Authority is empowered to review
25 and approve applications for Adult Uses as defined in Section
26 IA. subject to the provisions of D. Special Use Permit
27 Standards below and subject to all of the following additional
28 conditions and limitations:

- 29
30 i. The Special Permit Granting Authority shall not grant a
31 special permit for an Adult Use where there is another
32 Adult Use located within a one half mile radius;
33
34 ii. The Special Permit Granting Authority shall not grant a
35 special permit for an Adult Use where there is a school,
36 day care center, family day care home, parkland,
37 playground, library or branch library, religious use, funeral
38 home or cemetery located within 350 feet.
39
40 iii. The Special Permit Granting Authority shall not grant a
41 special permit for an Adult Use where there is a residential
42 zoning district located within 350 feet;
43
44 iv. Special permits granted shall be subject to annual
45 renewal.

1
2 An application to the Special Permit Granting Authority for an
3 Adult Use shall include the following information:

- 4
5 i. Name and address of the legal owner of the proposed
6 adult Use;
7
8 ii. Name and address of all persons having lawful, beneficial,
9 equity or security interests in the Adult Use;
10
11 iii. Names and addresses of the manager(s) and assistant
12 manager(s);
13
14 iv. The number of employees;
15
16 v. Proposed security precautions; and
17
18 vi. The physical layout of the premises showing, among other
19 things, the location or proposed location of the adult
20 books, adult paraphernalia or adult videos.
21

22 The legal owner of an Adult Use having received a special
23 permit shall promptly notify the Special Permit Granting
24 Authority of any changes in the above information within 10
25 days and failure to do so will be grounds for revocation of the
26 special permit.
27

28 b. Registered Marijuana Dispensaries
29

- 30 i. Purpose - The purpose of this subsection is to regulate the
31 siting, design, placement, security, safety, monitoring, and
32 modifications of Registered Marijuana Dispensaries
33 ("RMDs") within the Town of Wellesley to ensure that such
34 uses are operated in a manner consistent with the overall
35 health, welfare and safety of the Town in compliance with
36 the Chapter 369 of the Acts of 2012, *An Act for the*
37 *Humanitarian Medical Use of Marijuana*, and 105 CMR
38 *725.000: Implementation of an Act for the Humanitarian*
39 *Medical Use of Marijuana*, and to minimize the adverse
40 impacts of RMDs on adjacent properties, residential
41 neighborhoods, schools and other places where children
42 congregate, and other land uses potentially incompatible
43 with said RMDs.
44

1 ii. Compatibility with State Laws - These regulations
2 pertaining to RMDs are not intended to supersede state
3 laws and/or regulations, including but not limited to
4 Chapter 369 of the Acts of 2012, *An Act for the*
5 *Humanitarian Medical Use of Marijuana*, and 105 CMR
6 725.000: *Implementation of an Act for the Humanitarian*
7 *Medical Use of Marijuana*; rather, these regulations shall
8 take precedence where they are more stringent, and
9 where a matter is not addressed herein, compliance with
10 105 CMR 725.000 shall be required. Terms used herein not
11 defined within the Zoning Bylaw shall be as defined in 105
12 CMR 725.000.

13
14 iii. Applicability and Authority

15
16 1. Applicability:

- 17
18 a. No RMD use shall commence unless permitted by
19 the issuance of a special permit as authorized by this
20 Section and subsection.
21
22 b. No special permit for an RMD use shall be issued
23 unless the use is located in one of the zoning districts
24 established within the Zoning Bylaw specifically
25 authorizing such use.
26
27 c. The establishment and operation of RMDs shall be
28 subject to continued compliance with all special
29 permits, including any conditions thereof, the
30 provisions of this Section and subsection, and any
31 other applicable requirements of the Zoning Bylaw
32 and state laws and regulations.
33
34 d. The commercial cultivation, production, processing,
35 assembly, packaging, retail or wholesale sale, trade,
36 distribution or dispensing of marijuana is prohibited
37 unless permitted as an RMD as required and
38 authorized by the Zoning Bylaw.
39
40 e. Nothing in this Bylaw shall be construed to
41 supersede federal and state laws governing the sale
42 and distribution of narcotic drugs.
43

- 44 2. Authority: The Special Permit Granting Authority is
45 empowered to review and take action on special

1 permit applications for Registered Marijuana
2 Dispensaries consistent with the procedures established
3 in subsection C. of this Section; the Special Permit
4 Granting Authority may deny, grant, or grant with
5 conditions all such applications.
6

7 iv. General Regulations - All RMDs shall be subject to the
8 following conditions and limitations:
9

10 1. Location:
11

12 a. No special permit for an RMD shall be granted where
13 such use would be located within 500 feet of a:
14

15 i. Public or private elementary school, middle
16 school, or high school;
17

18 ii. Child care facility, including family daycare
19 homes, daycare centers, and/or nursery schools;
20 or
21

22 iii. Any establishment that advertises in a manner
23 that identifies the establishment as catering to or
24 providing services primarily intended for minors,
25 to be determined by the Special Permit Granting
26 Authority.
27

28 b. The 500 foot distance shall be measured in a straight
29 line from the nearest point of any structure
30 containing or associated with one or more of the
31 above uses, to the nearest point of the structure
32 within which the RMD would operate.
33

34 c. The commencement of one or more of the above
35 uses within 500 feet of a proposed RMD location
36 during the review of a special permit application for
37 an RMD (beginning on the date of submittal),
38 following the issuance of a special permit, or
39 following the commencement of the RMD use shall
40 not invalidate the RMD use, the special permit issued
41 therefor, or the ability to renew any unexpired or
42 unrevoked special permit.
43
44
45

2. Configuration and Operation:

- a. An RMD shall be located in, and conduct all operations within, an enclosed building; this shall not prohibit operations involving the delivery or receiving of permitted goods and products, which may involve transfer to or from a motor-vehicle outside of an associated building.
- b. All publically accessible entrances shall be visible from a public way.
- c. Drive-through windows and/or any interactions or sales to customers within vehicles are prohibited.
- d. No RMD shall be located inside a building containing residential dwelling units, including transient housing, group housing, hotels, motels, lodging houses, and/or dormitories.
- e. The hours of operation of RMDs shall be set by the Special Permit Granting Authority, but in no event shall an RMD be open to the public, performing deliveries, and/or otherwise operating between the hours of 8:00 PM and 8:00 AM; there shall be no exemptions to the prohibited hours of operation for emergencies.
- f. No person under the age of eighteen (18) shall be permitted on the premises of the RMD unless he or she is a qualified patient or primary caregiver, or is accompanied by a parent or legal guardian.
- g. No marijuana shall be smoked, ingested, or otherwise consumed on the premises of an RMD; the term "premises" includes all buildings, accessory structures, parking lots or parking areas, walks and/or other immediate surroundings located on the same lot/parcel as the RMD use.
- h. All RMDs shall be ventilated in such a manner that no pesticides, insecticides or other chemicals or products used in cultivation or processing are dispersed into the outside atmosphere, and so that no odor from marijuana or its processing can be

1 detected by a person with an unimpaired and
2 otherwise normal sense of smell at the exterior of the
3 RMD or at any adjoining use or property.

4
5 3. Signage:

- 6
7 a. All signs associated with RMDs shall comply with 105
8 CMR 725.000 and Section XXIIA, *Signs*.
9
10 b. All special permit applications for RMDs shall include
11 a proposed exterior sign package, which may be
12 included as a condition of issuance of the special
13 permit.
14
15 c. For every publically accessible entrance there shall
16 be at least one (1) sign that includes the language
17 "Registration card issued by the MA Department of
18 Public Health required" with a minimum text height
19 of two (2) inches.
20
21 d. Temporary signs and standard informational signs, as
22 defined in Section XXIIA, *Signs*, shall be prohibited.
23

24 4. Security:

- 25
26 a. RMDs shall provide the Wellesley Police Department,
27 Inspector of Buildings and the Special Permit
28 Granting Authority with the names, phone numbers
29 and email addresses of all management staff and
30 keyholders to whom one can provide notice if there
31 are operating problems associated with the
32 establishment; this information shall be updated
33 when staff of the RMD changes.
34
35 b. No operator and/or employee of an RMD shall have
36 been convicted of any felony under state or federal
37 law.
38
39 c. Trash dumpsters shall be locked and enclosed by a
40 screening enclosure so as not to be accessible to
41 the public.
42
43 d. The exterior grounds, including the parking lot and
44 landscaped areas, shall be lighted in such a manner
45 that all areas are clearly visible at all times during

1 business hours; all light fixtures shall have full cut off
2 shields.

3
4 e. The RMD shall be equipped with, and the operators
5 of such RMD shall maintain in working order at all
6 times, burglary/robbery alarms.

7
8 f. A video surveillance system in compliance with 105
9 CMR 725.000 shall be installed and maintained; the
10 system shall monitor all areas that may contain
11 marijuana, parking lot areas, main building
12 entrances and exits, and any and all transaction
13 areas for the dispensing of marijuana.

14
15 g. Procedures and protocols for the delivery and
16 transport of marijuana and MIPs shall be in
17 compliance with 105 CMR 725.000 and approved
18 by the Chief of Police.

19
20 v. Procedures and Findings

21
22 1. Procedures: In addition to the procedures established in
23 subsection C. of this Section, special permits issued for RMDs
24 shall be:

25
26 a. Limited to the current applicant and shall lapse if the
27 permit holder ceases operating the RMD;

28
29 b. Renewed annually.

30
31 2. Findings: In addition to determining compliance with the
32 above General Regulations, all other applicable Sections of
33 the Zoning Bylaw, and the applicable Special Use Permit
34 Standards contained in subsection D. of this Section, the
35 Special Permit Granting Authority in their review of any
36 special permit application for an RMD shall find that the
37 proposed Registered Marijuana Dispensary:

38
39 a. Meets a demonstrated local and regional need
40 based on the proximity of other RMDs serving the
41 Town's qualifying patients;

42
43 b. Meets all other applicable requirements of the
44 Zoning Bylaw and the permitting requirements of all
45 applicable agencies of the Commonwealth of

Massachusetts and the Town of Wellesley, and will otherwise comply with all applicable state and local laws and regulations;

c. Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;

d. Provides a secure indoor waiting area for patients;

e. Provides adequate pick up/drop off area;

f. Provides adequate security measures to ensure that no individual participants will pose a threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities; and

g. Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the RMD.

vi. Severability - The provisions of this subsection (5.b.) are severable. If any provision, paragraph, sentence, or clause of this Section, or the application thereof to any person, establishment, or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of this Section or the Zoning Bylaw.

- **By amending Section XXV., Special Permit Granting Authority, C., 2., of the Zoning Bylaw, by deleting the subsection in its entirety and inserting the following therefor:**

3. All but one of the members of the Special Permit Granting Authority consents thereto; and